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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,879	09/03/2004	Fred Mieras Killinger	PR60223USw	6675

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EXAMINER

FOSTER, JIMMY G

ART UNIT PAPER NUMBER

3728

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/506,879

Applicant(s)

KILLINGER, FRED MIERAS

Examiner

Jimmy G Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/3/04, 1/14/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

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1) Claims 1-36 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In each of claim 1 and 21, the limitation, "a wall structure raised above said film which extends throughout said film ..." appears to be inaccurate since the definition of "throughout" is "in every part" and since the wall structure is not raised from the film at every part. It is not raised at the cavities and is not raised at the interior region. Moreover, if the wall structure was raised in every part of the film, a film in essence would not exist. Furthermore, Applicant's drawings show a horizontal periphery and interior region of the film where the wall structure is not located, and the drawings fail to hint at how the interior region could be formed if the wall structure was located in every part of the film. Accordingly, it appears that Applicant is not claiming the subject matter Applicant regards as the invention.

If Applicant thinks that this 112 rejection is in error, Applicant is required to explain how the wall structure can be throughout the film while the film still has cavities and an internal region, and Applicant is required to state where in the description of the specification and in the figures of the drawings there is support for the term "throughout". However, if Applicant is relying on another definition of the term "throughout", unknown to the examiner, that is commensurate with the otherwise disclosed subject matter, Applicant is required to state that definition and to provide evidentiary support (such as a dictionary page copy) showing that the definition is an accepted definition of the English language.

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2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3) Claims 1-6, 9-13, 17-29 and 33-36 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hermelin et al (6,375,956). In the document of Hermelin et al, there is provided a blister package 90, including a film having a plurality of cavities/recesses 92, 94, 100 and 102 for holding medicaments therein. A cover sheet 108 overlies and closes the cavities. Forming an interior region enclosing the cavities is a wall structure (unnumbered, but apparently referred to as a shoulder in col. 15, lines 39-47) formed in the film and raised from the surface of the film. This is shown in the embodiment of Figures 7A and 7B. Moreover, Figures 1A, 8A and 8B appear to show a different form of the wall (again unnumbered), wherein the height of the wall is at least as dimensionally great as the height of the blisters.

The blister pack may include four columns, as shown in Figure 1A. The medicament may include oral forms, such as tablets and capsules (see col. 15, line 59-col. 16, line 7). The medicament may be an antiviral treatment, including a nucleoside reverse transcriptase inhibitor, such as Zidovudine and AZT (see col. 17, lines 29-51). The film which includes the cavities may be PVC, and the cover sheet/lid may be made of metal/aluminum foil (see col. 14, lines 46-66).

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4) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hermelin et al in view of Wharton et al (5,172,812). The document of Wharton et al at 22 suggests that a cover sheet may include a paperboard laminated to the bottom of the aluminum foil (14) for the purpose of providing a child protection feature to the cover sheet. Therefore, it would have been obvious in view of Wharton et al to have made the aluminum foil cover sheet of Hermelin et al with a paperboard layer laminated to the bottom thereof.

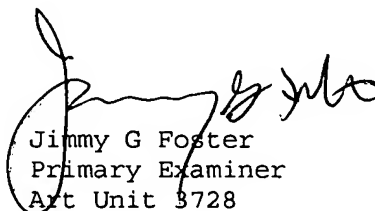
6) Claims 14-16 and 30-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over patent document US 2003/0064381 A1. Document US 2003/0064381 A1 suggests in paragraph [0970] that a regimen for the treatment of HIV may include the combination of zidovudine/AZT and Viramune and zidovudine/lamivudine. The reference of Hermelin et al discloses using the blister pack for containing multiple different medicaments for providing a complex dosing regimen. To have provided the substances zidovudine, Viramune and lamivudine as the medicaments would have been obvious for treating HIV, in view of US 2003/0064381 A1. To have provided any dosage amounts for these substances would have been further obvious as discovering a specific workable range or value for the substances.

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7) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (571) 272-4554. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Jimmy G Foster  
Primary Examiner  
Art Unit 3728

JGF  
25 April 2005